

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claim 18 is pending in the present application. Claims 1-17 are canceled without prejudice or disclaimer and new Claim 18 is added by the present amendment. Support for new Claim 18 can be found in the original specification and drawings.¹ No new matter is presented.

In the Office Action, Claims 15-17 are rejected under 35 U.S.C. §102(e) as anticipated by Pankaj (U.S. Pub. 2002/0183066); and Claims 1-14 are rejected under 35 U.S.C. §103(a) as unpatentable over Hashimoto et al. (U.S. Pub. 2004/0022176, herein Hashimoto) in view of Obata et al. (U.S. Pat. 6,912,394, herein Obata).

As an initial matter, Applicant appreciatively acknowledges the courtesy extended by Examiner Abdalla and Supervisory Patent Examiner Lee by holding a personal interview with Applicant's representative on March 24, 2009. During the interview, an overview of the claimed invention was presented, and proposed claim amendments were discussed. No agreement was reached during the interview pending a formal response to the outstanding Office Action. It is respectfully noted that new Claim 18 is substantially different from the proposed amendments discussed March 24, 2009.

With regard to the rejections of independent Claims 1, 9, 11 and 15-17, those rejections are rendered moot by the cancellation of Claims 1-17. To the extent that the cited references are relevant to new Claim 18, the following remarks are presented the Examiner's consideration.

New independent Claim 18 recites in part:

a requesting step of transmitting a signal requesting
data transmission from a mobile station to a base station when

¹ e.g., specification, at least at Figure 4 and paragraph to 43 of the publication of the specification.

there is data to be transmitted from the mobile station to the base station;

a notifying step of transmitting a signal notifying the data transmission from the mobile station to the station, when receiving the signal requesting data transmission;

a data transmission step of transmitting the data to be transmitted from the mobile station to the base station when receiving the signal notifying the data transmission; and

a retransmission notifying step of transmitting a signal representing whether the transmitted data is to be retransmitted or not,

wherein *when the signal representing an instruction to retransmit the data is transmitted, the data is retransmitted from the mobile station to the base station with a same modulation method as one used for the data transmission.*

With regard to original Claim 17, the outstanding Office Action noted that paragraph 60 of Pankaj describes that data packets received in error can be retransmitted. However, Pankaj does not appear to describe that such retransmission is done with a same modulation method as was used for the original transmission, as recited in new Claim 18.

With regard to Hashimoto, the outstanding Office Action conceded that Hashimoto does not describe receiving a result of judgment of reception. Accordingly, Hashimoto cannot describe that when a signal representing an instruction to retransmit the data is transmitted, the data is retransmitted from the mobile station to the base station with a same modulation method as one used for the data transmission, as recited in new Claim 18.

In an attempt to remedy the deficiencies of Hashimoto respect to original Claim 1, the Office Action relies on Obata. Obata describes a radio line allocation judging method in a mobile communication system. In rejecting the features of Claim 1, the Office Action relies on col. 3, ll. 22-30 of Obata, which describes a radio channel control device that includes a reception unit for receiving a communication request and a measurement result of a receiving level of a channel in a radio zone that is a target of the communication request. The radio channel control device also includes a judgment unit that adaptively selects the optimal carrier-to-interference ratio (CIR) corresponding to a received receiving level measurement

result from a table, and judges whether the assignment of the frequency/radio channel is possible according to a selected carrier-to-interference ratio (CIR).

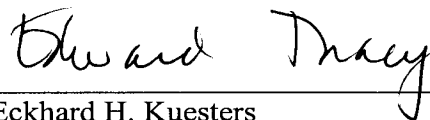
Thus, Obata is directed to a system that determines whether an assignment of a particular channel is possible based on the quality of a signal received by the mobile station. Obata, however, fails to teach or suggest transmitting a signal representing whether the transmitted data is to be retransmitted or not, as recited in new independent Claim 18. Accordingly, Obata also cannot describe that when a signal representing an instruction to retransmit the data is transmitted, the data is retransmitted from the mobile station to the base station with a same modulation method as one used for the data transmission.

Therefore, it is respectfully submitted that all of the cited references fail to teach or suggest "when the signal representing an instruction to retransmit the data is transmitted, the data is retransmitted from the mobile station to the base station with a same modulation method as one used for the data transmission" as recited in new independent Claim 18. Accordingly, it is respectfully submitted that new Claim 18 patentably defines over Hashimoto, Obata, and Pankaj.

Consequently, the present application is believed to be in condition for formal allowance and an early and favorable reconsideration of the application is therefore requested.

Respectfully submitted,

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